

Don Kiley
Sangamon County Clerk

SEP 26 2019

FILED

CASE# 2019-030
RESOLUTION NUMBER 3-1

**GRANTING A REZONING, CONDITIONAL PERMITTED USE WITH
CONDITIONS AND VARIANCES**
FOR CERTAIN PROPERTY LOCATED AT
3596 EAST STATE ROUTE 29, SPRINGFIELD
SANGAMON COUNTY, ILLINOIS

WHEREAS, the Zoning Board of Appeals has presented to the Sangamon County Board, Sangamon County, Illinois, its Findings of Fact and Recommendation that the Sangamon County Board **grant an amendment, Conditional Permitted Use with conditions and variances** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

See Exhibit A

WHEREAS, the Petitioner, **Duffy & Associates, Inc. dba Discount Tobacco, Steve Kerber**, has petitioned the Sangamon County Board for a **rezoning from “A” Agricultural District to “B-1” Neighborhood Business District; a Conditional Permitted Use pursuant to Section 17.22.020 for a tavern (approximately 500 sq. feet); a variance of Chapter 17.04 (Lot) to allow two (2) principal uses on one (1) parcel: (1) retail sales of tobacco and (2) tavern (approximately 500 sq. feet); a variance of Section 17.58.080 to allow a tavern property line to be approximately ten (10) feet from a residence instead of the required one hundred (100) feet; and, a variance of Section 17.50.060(B) to allow vehicles to back into a street or alley rather than accessing it in a forward manner; and,**

WHEREAS, a public hearing was held at the Sangamon County Building on **September 19, 2019** after proper notice was posted on said property and given by news publication, as is required by said Ordinance, and all procedural and jurisdictional requirements of the Sangamon County Zoning Ordinance have been met; and,

WHEREAS, the Sangamon County Zoning Board of Appeals has presented to the Sangamon County Board of Sangamon County its Findings of Fact and Recommendation that the

Sangamon County Board **grant a rezoning, Conditional Permitted Use with conditions, and variances;** and,

WHEREAS, the Sangamon County Board does hereby adopt the recommendation of the Sangamon County Zoning Board of Appeals.


NOW, THEREFORE, BE IT RESOLVED by the County Board of Sangamon County, Illinois, in session assembled this **8th Day of October, 2019** that the following requests on the above described property are hereby approved:

- **A rezoning from “A” Agricultural District to “B-1” Neighborhood Business District;**
- **A Conditional Permitted Use pursuant to Section 17.22.020 for a tavern (approximately 500 sq. feet) with the following conditions:**
 - 1) **The tavern is limited to approximately 500 square feet as shown on the site plan in the petition and**
 - 2) **The hours of operation are limited to the Sangamon County Liquor Ordinance;**
- **A variance of Section 17.58.080 to allow a tavern property line to be approximately ten (10) feet from a residence instead of the required one hundred (100) feet; and,**
- **A variance of Section 17.50.060(B) to allow vehicles to back into a street or alley rather than accessing it in a forward manner.**

Signed and passed by the Sangamon County Board in session on this **8th day of October, 2019.**

Respectfully submitted,

PUBLIC HEALTH, SOLID WASTE & ZONING
COMMITTEE OF THE SANGAMON COUNTY BOARD



GREG STUMPF, CHAIRMAN

DAVID MENDENHALL, VICE CHAIRMAN

CRAIG HALL

SAM SNELL

ABE FORSYTH

JASON RATTTS

LINDA DOUGLAS WILLIAMS

ANNETTE FULGENZI

LINDA FULGENZI

LISA HILLS

MIKE SULLIVAN

ROSE RUZIC

ATTEST:

SANGAMON COUNTY CLERK

COUNTY BOARD CHAIRMAN

EXHIBIT A

Part of the West Half of the Southeast Quarter of Section 6, Township 15 North, Range 4 West of the Third Principal Meridian, described as follows:

Commencing at a stake at the intersection of the South line of the Old Springfield and Rochester public road known as State Route No. 24 with the West line of said Half Quarter Section and running thence in a Southeasterly direction 972.17 feet to a stake and the point of beginning, thence in a Southwesterly direction along the West line of a tract once conveyed to Frank Kluzek 103.15 feet to a stake in the North line of the right of way of the Baltimore and Ohio Southwestern Railroad, thence in a Northwesterly direction along the North line of said right of way 260 feet to a stake, thence in a Northeasterly direction 183.2 feet to a stake in the South line of said public road, and thence in a Southeasterly direction along the South line of said road 260 feet to the point of beginning.

Parcel Number: 23-06.0-451-003

RECAP
(For County Board Use)

COUNTY BOARD MEMBER: #9 NAME: Tom Madonia, Jr.

DOCKET NUMBER: 2019-030

ADDRESS: 3596 E. State Rt. 29, Springfield, IL 62712

PETITIONER: Duffy & Associates, Inc., dba Discount Tobacco, Steve Kerber

PRESENT ZONING CLASSIFICATION: "A" Agricultural District with a Use Variance for production of furniture and antiques.

REQUESTED ZONING CLASSIFICATION: A rezoning from "A" Agricultural District to "B-1" Neighborhood Business District; pursuant to Chapter 17.58 Conditional Permitted Uses, a Conditional Permitted Use pursuant to Section 17.22.020 for a tavern (approximately 500 sq. feet); and, pursuant to Chapter 17.66 Variations, a variance of Chapter 17.04 (Lot) to allow two (2) principal uses on one (1) parcel: (1) retail sales of tobacco and (2) tavern (approximately 500 sq. feet), a variance of Section 17.58.080 to allow a tavern property line to be approximately ten (10) feet from a residence instead of the required one hundred (100) feet, and a variance of Section 17.50.060(B) to allow vehicles to back into a street or alley rather than accessing it in a forward manner.

AREA: 1 acre

COMMENTS: None

OBJECTORS: Yes

PLANNING COMMISSION STAFF RECOMMENDATION: Recommend approval of the requested B-1 District. The LESA score of 160 indicates the property is marginal requiring mitigating factors for non-agricultural development. In this case, the subject property has adjoining B-3 zoning, is only one acre that could not be economically converted to cropland, and has had a retail establishment operating on the subject property for approximately 30 years are mitigating factors in support of B-1 zoning. Recommend approval of the requested Conditional Permitted Use with the following conditions: 1) the tavern is limited to approximately 500 square feet as shown on the site plan in the petition, and 2) the hours of operation are limited to the Sangamon County Liquor Ordinance. Recommend approval of the requested variances. In 2005, the County Board granted a Use Variance for two uses on the subject property for furniture sales and storage for a construction business. The proposed uses are not seen to be more intense than the previous Use Variance granted on the subject property. There are unique circumstances in that the customer entrance to the proposed tavern will be over 100 feet away from the residence to the west, and the subject property sits on a low traffic, dead end road. The Standards for Variation are met.

SANGAMON COUNTY ZONING BOARD OF APPEALS RECOMMENDATION:
Approval of Staff Recommendation.


RECORDING SECRETARY

SANGAMON COUNTY ZONING BOARD OF APPEALS

SANGAMON COUNTY, ILLINOIS

IN THE MATTER OF THE PETITION OF:)	DOCKET NO: 2019-030
Duffy & Associates, Inc.)	
dba Discount Tobacco, Steve Kerber)	PROPERTY LOCATED AT:
)	3596 E. State Rt. 29
)	Springfield, IL 62712

RECOMMENDATION OF THE ZONING BOARD OF APPEALS

THIS MATTER, Coming on for a hearing before the Sangamon County Zoning Board of Appeals of Sangamon County, Illinois, and it appearing to said Board that a petition for a **rezoning, Conditional Permitted Use, and variances** of the Zoning Regulations of said County has been filed herein by the above captioned petitioner(s); that legal publication has been made pursuant to law; and that a public hearing was held on **September 19, 2019** pursuant to law; and that said Board took testimony of witnesses, examined the evidence, and otherwise being fully advised in the premises, therefore finds as follows:

1. That said Board has jurisdiction to consider the petition filed herein.
2. That the above-captioned petitioner(s) is the owner(s) and/or has a beneficial interest in, contract to purchase, or is the County Board Member representing the property commonly known as: **3596 E. State Rt. 29, Springfield, IL 62712** and more particularly described as:

See Exhibit A

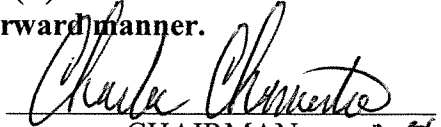
- 3. That the present zoning of said property is **“A” Agricultural District with a Use variance for production of furniture and antiques.**
- 4. That the present land use of said property is **former retail store.**
- 5. That the proposed land use of said property is **retail tobacco store with video gaming.**
- 6. That the requested **rezoning, Conditional Permitted Use, and variances** of said property is **a rezoning from “A” Agricultural District to “B-1” Neighborhood Business District; pursuant to Chapter 17.58 Conditional Permitted Uses, a Conditional Permitted Use pursuant to Section 17.22.020 for a tavern (approximately 500 sq. feet); and, pursuant to Chapter 17.66 Variations, a variance of Chapter 17.04 (Lot) to allow two (2) principal uses on one (1) parcel: (1) retail sales of tobacco and (2) tavern (approximately 500 sq. feet), a variance of Section 17.58.080 to allow a tavern property line to be approximately ten (10) feet from a residence instead of the required one hundred (100) feet, and a variance of Section 17.50.060(B) to allow vehicles to back into a street or alley rather than accessing it in a forward manner.**
- 7. That required findings and standards of the Sangamon County Board of Appeals are accurately stated on the attached exhibit(s).
- 8. The evidence adduced at the hearing **does** support the proposition that the adoption of the proposed **rezoning, Conditional Permitted Use with the following conditions:**

- 1) **the tavern is limited to approximately 500 square feet as shown on the site plan in the petition; and,**
- 2) **the hours of operation are limited to the Sangamon County Liquor Ordinance;**

and, variances is in the public interest and is not solely in the interest of the petitioner(s).

IT IS, THEREFORE, the recommendation of the Sangamon County Zoning Board of Appeals to the County Board of Sangamon County that the requests are hereby **approved** for:

- **A rezoning from “A” Agricultural District to “B-1” Neighborhood Business District;**
- **A Conditional Permitted Use pursuant to Section 17.22.020 for a tavern (approximately 500 sq. feet) with the following conditions:**
 - 1) **The tavern is limited to approximately 500 square feet as shown on the site plan in the petition**
 - 2) **The hours of operation are limited to the Sangamon County Liquor Ordinance;**
- **A variance of Section 17.58.080 to allow a tavern property line to be approximately ten (10) feet from a residence instead of the required one hundred (100) feet; and,**
- **A variance of Section 17.50.060(B) to allow vehicles to back into a street or alley rather than accessing it in a forward manner.**


CHAIRMAN YCB

MINUTES OF THE
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Tony Mares**, to concur with the findings of fact and recommendation of the Regional Planning Commission and recommend to the County Board that the petition for

- **A rezoning from “A” Agricultural District to “B-1” Neighborhood Business District;**
 - **A Conditional Permitted Use pursuant to Section 17.22.020 for a tavern (approximately 500 sq. feet) with the following conditions:**
 - 1) **The tavern is limited to approximately 500 square feet as shown on the site plan in the petition and**
 - 2) **The hours of operation are limited to the Sangamon County Liquor Ordinance;**
 - **A variance of Section 17.58.080 to allow a tavern property line to be approximately ten (10) feet from a residence instead of the required one hundred (100) feet; and,**
 - **A variance of Section 17.50.060(B) to allow vehicles to back into a street or alley rather than accessing it in a forward manner.**
- are hereby approved which was duly seconded by Don Wulf.**

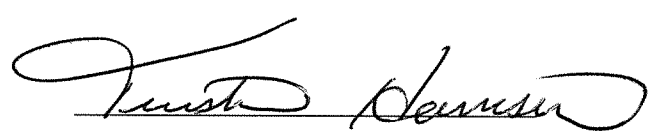
The vote of the Board was as follows:

YES: **Charlie Chimento, Don Wulf, Tony Mares, Larry Beaty, JD Sudeth**

NO:

PRESENT:

ABSENT: **Andrew Spiro**



RECORDING SECRETARY

**SANGAMON COUNTY
RECOMMENDED - FINDINGS OF FACT**

Case #: **2019-030**

Address: **3596 East State Route 29, Springfield**

- (i) Existing uses of property within the general area of the property in question.
North – Residence and cropland. East – Storage facility. South – Pasture. West – Residence.
- (ii) The zoning classification of property within the general area of the property in question.
North, South, & West – Agricultural. East – B-3.
- (iii) The suitability of the property in question to the uses permitted under the existing zoning classification.

The LESA score of 160 indicates the property is marginal requiring mitigating factors for non-agricultural development. In this case, the subject property has adjoining B-3 zoning, is only one acre that could not be economically converted to cropland, and has had a retail establishment operating on the subject property for approximately 30 years are mitigating factors in support of B-1 zoning.

- (iv) The trend of development, within the vicinity since the property was originally classified.
In 2005, B-3 was denied but later a Use Variance was granted for furniture sales and storage for a construction business on the subject property. In 1995, a request for B-3 with a Use Variance and variance was withdrawn on the subject property. In 1994, B-2 was denied and a rear yard variance was approved on the subject property. In 1987, B-2 and a variance were denied but a Use Variance for furniture sales was approved on the subject property. In 2004, B-3 was approved directly east of the subject property.

**SANGAMON COUNTY - RECOMMENDED FINDINGS OF FACT
FOR CONDITIONAL PERMITTED USES**

Case #: **2019-030**

Address: **3596 East State Route 29, Springfield**

No conditional permitted uses shall be granted by the County Board unless the conditional permitted use:

- (i) Is so proposed that the proposed location, design and method of operation of such use will minimize the adjacent effects on the character of the surrounding area.

Conditions are suggested regarding size and hours of operation to minimize potential impacts.

- (ii) Is so proposed to be operated, designed and located so that the public health, safety, and welfare will be protected.

The public health, safety, and welfare should be protected with the suggested conditions regarding size and hours of operation.

- (iii) Will not cause substantial injury to the value of other property in the vicinity in which it is located.

The tavern, with the proposed size and hours of operation restrictions, will not likely cause substantial injury to property values in the vicinity.

- (iv) In addition to the above general standards for all conditional permitted uses that may be allowed, no conditional permitted use listed below shall be granted unless the proposed use can meet the standards as noted:

- (a) Fairgrounds, public or private outdoor recreation centers - that the principal vehicle access for such use is located on a major thoroughfare or a secondary thoroughfare or within one-quarter mile of a major thoroughfare, that such use is so located as to draw a minimum of vehicular traffic to and through minor and collector streets in residential areas.

N/A

- (b) Manufactured home parks - must meet the requirements of Chapter 17.48 Large Scale Development.

N/A

- (c) Tourist home, motels, hotels - that the proposed use must be located on or within 400 feet of a major thoroughfare.

N/A

- (d) Taverns and liquor stores - that the following distances be maintained: (1) schools - 100' from the property line of the school to the property line of the tavern or liquor store; (2) churches - 100' from the church building to the tavern or liquor store building; and (3) residences - 100' from the tavern or liquor store property line to the residential structure or institutional care facility.

A variance is requested to allow the tavern property line to be within ten (10) feet of a residence.

- (e) Wind energy conversion systems - a WECS shall not be located within 1½ miles of an incorporated area with a population over 10,000 or within ½ mile of an incorporated area with a population of less than 10,000. WECS shall not be located so that they interfere with contiguous urban development.

N/A

**SANGAMON COUNTY
RECOMMENDED STANDARDS FOR USE VARIATIONS
(TWO USES ON ONE PARCEL: 1) RETAIL SALES OF TOBACCO & 2) TAVERN)**

Case #: **2019-030**

Address: **3596 East State Route 29, Springfield**

The Zoning Board of Appeals shall not recommend to the Sangamon County Board that the regulations of the zoning ordinance be varied as authorized in Section 17.66.010 thereof, unless it shall make findings of fact based upon the evidence presented to it in each specified case:

- (i) that the variance is justified by a showing of special circumstances demonstrating practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Regulations.

In 2005, the County Board granted a Use Variance for two uses on the subject property for furniture sales and storage for a construction business. The proposed uses are not seen to be more intense than the previous Use Variance granted on the subject property.

- (ii) that the variance is compatible with the trend of development in the area.

The subject property has operated with two uses previously when Zoning Case #2005-015 granted a Use Variance for two uses on the subject property for furniture sales and storage for a construction business. In 2004, B-3 was approved directly east of the subject property.

- (iii) that the variance will benefit the community and be in harmony with the general purpose and intent of the Zoning Regulations.

The proposed retail sales of tobacco and tavern uses are in harmony with the Zoning Regulations as the subject property is located off of State Route 29 near Hilltop Road where small scale operations that satisfy the needs of local consumers as contemplated by the B-1 District might be located.

- (iv) that the variance will not create a negative impact on the area, will not alter the essential character of the locality, impair an adequate supply of light and air to adjacent property, increase the congestion of traffic, or diminish or impair property values in the locality.

Negative impacts are not anticipated.

**SANGAMON COUNTY
RECOMMENDED - STANDARDS FOR VARIATIONS**

Case #: **2019-030**

Address: **3596 East State Route 29, Springfield**

The Zoning Board of Appeals shall not recommend to the Sangamon County Board that the regulations of this ordinance be varied as authorized in F. (1) hereof, unless it shall make findings of fact based upon the evidence presented to it in each specified case:

- (i) that the property in question cannot be economically used or yield a reasonable return, if permitted to be used only for the conditions allowed by the regulations.

Tavern Variance: The building is located on the east end of the subject property and is over 100 feet away from the residence to the west, so granting the requested variance will allow the petitioner to economically use the subject property for the proposed tavern.

Backing Vehicles Variance: There could be a potential reduction in the yield of reasonable return if the parking arrangement must be redone, because the subject property operated as a retail store for approximately 30 years with the same parking layout (vehicles backing onto the dead end road).

- (ii) that the plight of the owner is due to circumstances unique to the property and not generally applicable to other property in the area.

Tavern Variance: There is a unique circumstance in that the customer entrance to the proposed tavern will be over 100 feet away from the residence to the west.

Backing Vehicles Variance: There is a unique circumstance in that the subject property sits on a low traffic, dead end road.

- (iii) that the variation, if granted, will not alter the essential character of the locality, impair an adequate supply of light and air to adjacent property, increase the congestion of traffic, or diminish or impair property values in the locality.

Negative impacts are not anticipated.

LAND EVALUATION AND SITE ASSESSMENT

Part 1: Site Assessment

	Available Points	Points
<u>AGRICULTURAL/RURAL LAND WITHIN .5 MILE</u>		
90% or more	20	
75-89%	10	10
50-74%	5	
Under 50%	0	
<u>CONTIGUOUS AGRICULTURAL/RURAL LAND</u>		
90% or more	20	
75-89%	10	
50-74%	5	0
Under 50%	0	
<u>PERCENTAGE OF SITE AGRICULTURAL/RURAL</u>		
75-100%	10	
50-74%	5	0
Under 50%	0	
<u>COUNTY SECTOR</u>		
Rural	20	
0.5 mile from incorporated area	10	10
Incorporated area	0	
<u>SOIL WITH SEVERE RESTRICTIONS FOR ON-SITE WASTE DISPOSAL</u>		
75% or more	20	
50-74%	10	20
25-49%	5	
Less than 25% or sewer available	0	
<u>ENVIRONMENTAL IMPACT OF PROPOSED USE</u>		
Negative impact	15	
Little or none with protective measures	5	0
Little or none	0	
<u>IMPACT ON UNIQUE HISTORICAL/CULTURAL FEATURES</u>		
Negative impact	10	
No impact	0	0

CONDITION OF ROAD

unpaved, <40' ROW, or < 16' pavement	20	
16'-18' pavement, 40' ROW	15	0
18'-20' pavement, 40' ROW	10	
> 20' pavement, 40' ROW or County or State Highway	0	

AVAILABILITY OF PUBLIC SEWER

Not available	15	
Sewer over 600'-1200' away	8	15
Private central sewage system	5	
Sewer 600' or less away and available	0	

AVAILABILITY OF PUBLIC WATER

Not available	20	
1,000-1,500' away	15	0
Less than 1,000' away	5	
Public water available at site	0	

DISTANCE FROM RESPONDING FIREHOUSE

Not in fire protection district	20	
More than 5 miles or fire protection by assignment	10	5
2.6-5 miles	5	
0-2.5 miles	0	

DRIVING TIME TO HIGH SCHOOL

Over 30 minutes	10	
15-30 minutes	5	0
Less than 15 minutes	0	

SITE ASSESSMENT TOTAL**60**

<u>Soil</u>	<u>Name</u>	<u>Type</u>	<u>%</u>	<u>Relative Value</u>	<u>Points</u>
198A	Elburn	P		100	
199A	Plano	P		100	
43A	Ipava	P	100	100	100
7148A	Proctor	P		100	
46A	Herrick	P		100	
7037A	Worthen	P		100	
705A	Buckhart	P		98	
199B	Plano	P		98	
36B	Tama	P		98	
244A	Hartsburg	P2		98	
257A	Clarksdale	P2		98	
68A	Sable	P2		87	
679B	Blackberry	P		87	
705B	Buckhart	P		87	
86B	Osco	P		87	
684B	Broadwell	P		87	
50A	Viriden	P2		87	
712A	Spaulding	P2		87	
127B	Harrison	P		87	
3077A	Huntsville	P3		87	
138A	Shiloh	P2		87	
249A	Edinburg	P2		87	
242A	Kendall	P2		87	
7242A	Kendall	P2		87	
134A	Camden	P		87	
17A	Keomah	P2		87	
3451A	Lawson	P3		75	
3107A	Sawmill	P5		75	
7075B	Drury	P		75	
8396A	Vesser	P2		75	
3074A	Radford	P3		75	
3073A	Ross	P3		75	
3284A	Tice	P3		75	
279B	Rozetta	P		75	
45A	Denny	P2		75	
134B	Camden	P		75	
112A	Cowden	P2		75	
685B	Middletown	P		75	
3405A	Zook	P5		75	
131C2	Alvin	P		75	
86C2	Osco	I		74	
36C2	Tama	I		74	
684C2	Broadwell	I		74	
119C2	Elco	I		74	
119D	Elco	I		74	
127C2	Harrison	I		74	
119D2	Elco	I		74	
567C2	Elkhart	I		74	
134C2	Camden	I		74	
259C2	Assumption	I		74	
685C2	Middletown	I		74	

280D2	Fayette	I	74
119D3	Elco	N	74
259D2	Assumption	I	74
212C2	Thebes	I	74
630C2	Navlys	I	74
630D2	Navlys	I	74
630D3	Navlys	I	57
131D2	Alvin	I	57
8D	Hickory	I	50
8D2	Hickory	I	50
280D3	Fayette	I	44
8D3	Hickory	I	44
8F	Hickory	N	44
549G	Marseilles	N	0
533	Urban Land	N	
536	Dumps	N	
830	Orthents, Land	N	
862	Pits, Sand	N	
864	Pits, Quarries	N	
801C	Orthents, Silty	N	
W	Water		

Prime/Important Farmlands Designations:

P: Prime farmland

P2: Prime where drained

P3: Prime where protected from flooding or flooding is less often than once in two years during the growing season.

P5: Prime where drained and either protected from flooding or flooding is less often than once in two years during the growing season.

I: Important farmland

N: Not Prime/Important Farmland

AGRICULTURAL LAND EVALUATION TOTAL	100
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GRAND TOTAL	160
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Fewer than 150 points shall be deemed acceptable for non-agricultural development.

From 150 - 175 points is considered marginal requiring mitigating factors for non-ag development.

Greater than 175 points shall be considered suitable for agricultural use only.